

### Remarks

In the subject Office Action, the Examiner rejected claims 1-9 under 35 U.S.C. 102(b) as being anticipated by the cited patent to Lee. Applicant respectfully traverses this rejection and requests reconsideration in view of the above amendments and the reasons set forth below.

As an initial matter, the Examiner noted that certain language was not given patentable weight because the associated limitations were considered purely functional. Applicant has attempted to overcome this issue by claiming the invention as a method and by rephrasing certain limitations.

As another initial matter, Applicant is interpreting the Lee device being used as shown on the cover page of the Lee patent. If the user were to face the opposite direction, and place his feet on the foot supports 46, then the foot supports would not be constrained to pivot toward the upper body support, nor constrained to pivot in a direction opposite the pivoting of the upper body support.

Claim 1 now recites a method of performing abdominal muscle exercise. Among other things, this method includes the steps of (1) mounting a seat on a discrete portion of the frame (apart from the respective mounting locations of the upper and lower body supports); (2) arranging the upper body support to extend generally vertically upward in front of the seat; (3) constraining the upper body support and the lower body support to pivot toward one another, and in respective, opposite directions relative to both

the frame and the seat; and (4) sitting on the seat and exercising one's abdominal muscles by performing any combination of pushing the upper body support downward relative to the seat and lifting the lower body support upward relative to the seat. Applicant respectfully submits that none of these four limitations is met by the Lee reference.

With regard to the first enumerated limitation, Lee shows a seat and a foot support mounted on the same lever arm, which in turn, is pivotally mounted on the frame. In other words, Lee's foot support and seat are not mounted on discrete portions of Lee's frame.

With regard to the second enumerated limitation, Lee shows an upper body support arranged to extend upward behind the seat, and then across a person's shoulders. In other words, Lee's upper body support does not extend generally vertically upward in front of the seat.

With regard to the third enumerated limitation, Lee shows a seat that pivots together with a foot support (because both are on the same lever arm). In other words, Lee's foot support does not pivot relative to the seat.

The fourth enumerated limitation is related to the third limitation, and is similarly not met by Lee because one cannot sit on Lee's seat and lift the lower body support upward relative thereto (they move together or not at all).

With regard to claim 2, Applicant respectfully submits that Lee does not show a person's feet on top of lower foot engaging portions and beneath upper foot engaging portions.

With regard to claim 3, Applicant respectfully submits that Lee does not show an upper portion of the upper body support that is rotatable about multiple non-parallel axes relative to a lower portion of the upper body support.

With regard to claim 4, Applicant respectfully submits that Lee does not show a seat rigidly secured in place on the frame.

With regard to claim 5, Applicant respectfully submits that Lee does not show a resistance device interconnected between the frame and the upper body support. Although the user's body weight resists exercise movement on the Lee device, Applicant respectfully questions whether the user may be construed as a component of the apparatus on which the claimed method is performed, and further, whether the user may be considered connected to both the upper body support and the frame.

With regard to claim 6, Applicant respectfully submits that the user shown on the Lee device is not disposed entirely beneath a planform defined by the seat.

With regard to claim 7, Applicant respectfully submits that Lee does not show the pivot axis for the upper body support arranged to extend beneath a planform defined by the seat.

With regard to claim 8, Applicant respectfully submits that Lee does not show a person straddling the recited upper body support.

Claim 9 is being cancelled without prejudice.

Next, the Examiner rejected claims 3 and 5 under 35 U.S.C. 103(a) as being unpatentable over Lee in view of the cited patent to Spirito. Applicant respectfully traverses this rejection and requests reconsideration in view of the above amendments and the reasons set forth below.

As an initial matter, Applicant respectfully questions whether motivation exists to combine the two references as suggested by the Examiner, since the references disclose relatively disparate exercise devices.

Applicant also respectfully submits that claims 3 and 5 depend from claim 1 and thus, are patentable for the reasons set forth above with reference to claim 1.

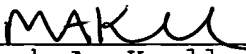
With regard to claim 3 in particular, Applicant respectfully submits that Spirito shows U-brackets 64, as opposed to universal joints. In this regard, the Spirito brackets 64 appear to accommodate pivoting about only a single, horizontal axis.

As a final matter, claim 10 is being added to depend from claim 1 and recite that the upper body support is provided with a lower distal end that is arranged to extend rearward of the first pivot axis and beneath a planform defined by the seat, and the additional step of interconnecting a resistance device between the frame and the lower distal end.

Having addressed the issues raised in the subject Action, Applicant respectfully requests reconsideration and allowance of the subject application. Should the Examiner wish to discuss any

matter regarding the subject patent application, she is certainly welcome to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,

  
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